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**CITY OF GAITHERSBURG
MINUTES OF THE SEPTEMBER 5, 2006
HISTORIC DISTRICT COMMISSION MEETING**

A meeting of the Historic District Commission was called to order at 9:25 p.m., Chair Katz presiding. Commissioners present: Alster, Edens, Marraffa, Schlichting and Sesma. Staff present: City Manager Humpton, Planner Patula, City Attorney Borten and Executive Assistant Stokes.

APPROVAL OF MINUTES

Motion was made by Commissioner Schlichting, seconded by Commissioner Edens, that the minutes of a Historic District Commission meeting held July 17, 2006, be approved.

Vote: 5-0-1 (Abstained: Alster)

Motion was made by Commissioner Sesma, seconded by Commissioner Alster, that the minutes of a Historic District Commission meeting held August 21, 2006, be approved.

Vote: 5-0-1 (Abstained: Edens)

POLICY DISCUSSION

HAWP-37E, Applicant: Stephen Orens for Hamza Halici/Halici, Inc., Request Demolition of the Historic Talbott House at 309 North Frederick Avenue

Planner Patula stated the applicant has requested demolition for the above house also known as the Hair Bar. The applicant has based the request on the claim of economic hardship. Planner Patula gave a brief background of the site and its connection with the Frederick Avenue Corridor Master Plan and summarized the Historic Preservation Advisory Committee (HPAC) findings. She stated the property was purchased in 1978. Since that time, the City has been working with the applicant to develop the property with two approved plans which did not come to fruition. In 1999, Mr. Halici applied for demolition of the structure and after several years of negotiations with the City, the Historic District Commission (HDC) did grant approval of the Historic Area Work Permit. The approval was extended through June 5, 2006 at which time it expired. The applicant is now reapplying for the same request.

In regards to the Frederick Avenue Corridor Master Plan, the Plan calls for the retention of the structure in its adapted reuse. Planner Patula stated that the Plan has a standard that states that a demolition cannot take place until a site plan is approved which the applicant has not been able to acquire. In July 2006, the HPAC held a public hearing which continued on August 3, 2006. At that meeting, the HPAC voted unanimously to recommend denial of this demolition request, referencing Section 24-228.2(d). The HPAC's findings stated that the applicant did not provide evidence sufficient to meet his burden of proof by showing that the retention of the historic house creates a substantial financial hardship. It was further stated that the financial information was incomplete and lacked sufficient detail to make a conclusive case that if any hardship does exist, that it exists solely because of the requirement to retain the historic house on the designated property. Documents submitted showed that the applicant has maintained a

profitable business. The Committee further found that there was no evidence presented that differentiated this historic resource from other comparable resources that have found reasonable uses, nor was any evidence submitted to show something unique about the site that caused a unique burden to the applicant. The Committee further found that the retention of the structure would not hinder the Frederick Avenue Corridor Plan development. Planner Patula stated that staff has observed through the number of persons speaking at both public hearings, that the retention would not adversely affect the best interests of the citizens in the community. Staff is seeking guidance from the HDC. She added that the HDC can either render a decision based on the record of the HPAC or conduct public hearing, but the applicant would have to agree to extend a time for the 45-day work permit.

The Commission was not in concurrence to grant demolition for the property for several reasons and asked for guidance from City Attorney Borten on conducting a public hearing.

City Attorney stated that if the applicant does not agree to an extension, then under the ordinance, no action within the 45-day period would make the request deem approved for demolition. She stated that the Commission could agree with the recommendation of the HPAC, but would have to make it clear that it is based on the record of the HPAC. She reiterated that demolition can be approved, but the City cannot issue a permit until there is a site plan.

On behalf of the applicant, Stephen Orens, DuFour and Orens, agreed to waive the 45-day requirement to give the applicant an opportunity to present his case.

Motion was made by Historic District Commissioner Schlichting, seconded by Commissioner Alster, that the Historic District Commission conduct a public hearing on HAWP-37E.

Vote: 6-0

ADJOURNMENT

There being no further business to come before the Historic District Commission, the meeting was duly adjourned at 9:45 p.m.

Respectfully submitted,

Doris R. Stokes

Executive Assistant